

For: duplicate file
Folder in RM-7649 Secretary
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

Rm. 222

ORIGINAL
FILE

29 JUL 1991

93-85/

RM-7649

IN REPLY REFER TO:

7230-D

RECEIVED

JUL 30 1991

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Honorable Lloyd Bentsen
United States Senator
961 Federal Building
Austin, Texas 78701

Dear Senator Bentsen:

This is in reply to your letter of July 15, 1991, on behalf of your constituent, Mr. Tom Blackwell. On February 5, 1991, Mr. Blackwell, along with Mr. Joe Jarrett, filed a petition to amend the amateur service rules to provide that the licensee of an amateur station in repeater operation is secondarily liable where the repeater retransmits communications that are prohibited by the amateur service rules. Under their proposal, the originator of the prohibited transmission would be primarily responsible for the retransmission.

The petition for rule making has been designated as RM-7649. Comments in support of, or in opposition to, the petition were due April 8, 1991. Reply comments were due April 23, 1991. After reviewing the comments and reply comments, the Commission will determine what action should be taken with respect to the petition. We will associate your letter and its enclosures with the file in this proceeding.

I trust this is responsive to your inquiry.

Sincerely,
Dorothy H. Baker
for Ralph A. Haller
Chief, Private Radio Bureau

041

Congressional

DUE in OBC: 7-30-91

PLEASE PROVIDE AN EXTRA COPY (LETTER HEAD, XEROXED)

LLOYD BENTSEN
TEXAS

COMMITTEES:
FINANCE
COMMERCE, SCIENCE, AND TRANSPORTATION
JOINT ECONOMIC
JOINT COMMITTEE ON TAXATION

United States Senate

WASHINGTON, DC 20510

July 15, 1991

*PRB
reulmaker*

2143

Mr. Alfred Sikes
Chairman
Federal Communications Commission
1919 M Street
Washington, D.C. 20554

Dear Chairman Sikes:

I recently received the enclosed constituent inquiry, and I would very much appreciate your providing me with any pertinent information you might have regarding the matter.

Your kind assistance is greatly appreciated. ~~PP~~

Sincerely,



Lloyd Bentsen

Enclosure

PLEASE REPLY TO:

961 Federal Building
Austin, Texas 78701
ATTN: Anne Mosher

Tom Blackwell, N5GAR
3833 Wentwood Drive
Dallas, Texas 75225
(214) 361-7531

June 13, 1991

Senator Lloyd Bentsen
703 Hart Senate Office Bldg.
Washington, D.C. 20510

Dear Senator Bentsen:

~~Mr. Tom Blackwell of Austin and I recently filed a Petition for Rule~~

[The remainder of the letter is heavily redacted with multiple horizontal black bars.]

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

Amendment of Section 97.205 (g)
related to Repeater Stations

RM - 7649

PETITION FOR RULE MAKING

To the Honorable FCC COMMISSIONERS:

We, the undersigned amateur licensees, wish to amend Section 97.205, adding paragraph "g" as follows:

97.205 (g) Where transmissions to the input frequency of a repeater are prohibited by these Rules, and the repeater retransmits a prohibited

The form of the proposed Rule has been influenced by the form of Section 97.205 (c).

As amateur licensees who use repeaters regularly, we feel this change will be beneficial to the amateur service.

Respectfully submitted,

Tom M. Blackwell, N5GAR
P.O. Box 25403
Dallas, Texas 75225
(214) 361-7531

Joe Jarrett, K5FOG
13411 Overland Pass
Austin, Texas 78736
(512) 263-5349

COPY.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

RM - 7649

Amendment of Section 97.205 (g)
related to Amateur Repeater Stations

REPLY COMMENTS OF AN ORIGINAL PETITIONER

To the Honorable FCC COMMISSIONERS:

As a petitioner in RM-7649, I am gratified by the response of fellow amateurs to this proposal. I have received encouraging comments from all over the country.

We have asked the Commission to adopt the following rule:

97.205 (g) Where transmissions to the input frequency of a repeater are prohibited by these Rules, and the repeater retransmits a prohibited transmission, the originator of the prohibited transmission has the primary responsibility for the retransmission, and the licensee of the repeater has a secondary responsibility.

Joe Jarrett, K5FOG, and I started work on our petition with FM voice repeaters in mind. It has involved more than one year of research and discussion. We have answered questions from interested amateurs about whether our petition also applies to the various digital modes of repeated communications. In answering, I have simply read the definition of a "Repeater," which is found in Part 97.3 (34):

Repeater. An amateur station that automatically retransmits the signals of other stations.

With this explanation, those inquiring seem satisfied that our petition covers the digital modes. It is situations involving these modes that concern many amateurs, although we are concerned for the voice modes as well. I have been given copies of two letters written by amateurs to the Commission, providing reasons why each of them should not have to pay \$300.00 forfeitures on account of allegedly prohibited content of messages automatically retransmitted by their digital systems. I would like for the rule we have proposed to apply to these systems. While I am not an attorney, I am of the belief that this coverage is provided. At the same time, I would tell you that I am not an expert on all the digital systems that may be available, or that may be under development, for current or future use in the amateur service.

We also desire that the rule adopted settle these matters using "plain English" to precisely resolve issues of urgent importance to the amateur community.

Amateurs should not be put into a position of arguing with one another for hours over a vague or unclear rule, to determine whether a transmission is legal. We have made our best attempt to do this with the wording submitted for 97.205 (g). We believe this language is compatible with the style and substance of the other language in Part 97.

Part 1.405 of the Commission's Rules provides that those who file a statement in support or opposition to a petition must prove service of a copy to the petitioner. Accordingly, receipt is acknowledged of the comments with copies attached. It is hoped that the Commission has received the same in a timely manner during the comment period.

As the mails run, it is possible that some comments received by me within this period may not have made it to your office on time. I would ask the Commission to consider all the relevant comments, attached, which are being filed with this submission.

From time to time the Commission receives comments on a particular petition that are not relevant. Such comments would be better filed as a separate petition for rule making. The ARRL's "FCC Rule Book," (8th Edition, First Printing, 1989) addresses this situation on page 14-12 and 14-13:

Comment only on a specific issue. When you file comments on a petition originated by someone else, restrict your comments only to the issue raised in that petition. Don't use that as a vehicle for submitting a new proposal which should be reserved for a future petition of your own.

I believe the comments of Mr. John S. Burningham, WB8PUF, fall into this category. There may be others. While I acknowledge receipt of Mr. Burningham's submission, I am not forwarding duplicate copies of this lengthy document as an attachment.

When amateur rules such as this are written, it must be considered that many of the licensees who will be charged with following them are not legal specialists. In fact, a number of them are children. This is a different situation than what is faced by most federal agencies with rule making procedures. A special effort must be made to insure clarity as well as legality. We hope we have been successful in developing the language submitted.

I must relate that the very concept of a message with content prohibited by a federal agency rule is a rather chilling manifestation, in view of the First Amendment.

I would reiterate our belief that a repeater trustee or control operator has no idea what content is going to be transmitted until it is, in fact, transmitted. "You don't know what I'm going to say until I say it."

Let us put into plain English, in a precise manner, what common sense dictates. No jury hearing a case against a repeater trustee would decide otherwise. Let's make the rules a little more practical, and a little less vague. The amateur rules have not had the tests in the courts that have come for other parts of the FCC rules, which involve financial interests.

There are repeater trustees who are nervous, and go overboard about their perceived responsibility to enforce the rules, and seek to "control" the content

of what is transmitted by other licensees on the input frequencies of their repeaters. Some trustees have been wrong about their interpretation of these rules. Repeaters have been turned off, and long term controversies started, because of a trustee's incorrect conclusions about the FCC Rules.

When these controversies gain momentum, the FCC FOB offices are contacted by citizen amateurs. When these situations involve a large number of people, much time and effort of the staff is demanded. It is hoped that the adoption of our proposal will reduce the potential for certain types of controversies to commence that would take considerable time and effort of the commission's staff, and/or ultimately end up in litigation or formal action in court. The public will benefit from a more efficient operation of FCC FOB offices if such controversies do not drain their resources. RM-7649 is intended to help reduce this drain.

The new paragraph "g" does not eliminate a trustee's responsibility for insuring the proper operation of his repeater. It is intended to protect him from blame for those instantaneous operations over which he has no effective control.

With this, we have the concept of a secondary responsibility, and the influence of Section 97.205 (c) on our proposal.

In their comments, the Motor City Radio Club, Inc. of Wyandotte, Michigan states: "Secondary responsibility of the repeater licensee could mean that if a pattern of improper communications is perceived that it could be required that the repeater licensee seek solutions to eliminate the problem." This is the kind of arrangement we are seeking in the rules.

Joe Jarrett and I are personally familiar with an enforcement action taken by the Dallas FOB under the primary and secondary responsibility prescribed in Section 97.205 (c). This was successful.

The Motor City Radio Club also states:

We believe that strict enforcement of the present rules can lead to the shutting down of repeaters because the licensees do not want to be held responsible for things over which they do not have complete control. This would mean the loss of a valuable resource for emergency and public service communications.

I agree. I have learned of a repeater trustee who shut down his club's repeater during a period of political controversy within the amateur community and arguments over his various interpretations of the rules. Then when an emergency took place, a club member could not use the repeater, or its telephone line connection, to call police.

As amateur licensees who use repeaters regularly, we feel this change will be beneficial to the amateur service. We are encouraged by the support for this proposal. It has been editorially endorsed by the Amateur Radio News Service. It has been endorsed by Wayne Green, W2NSD, publisher of 73 Magazine. It has been endorsed by the Texas VHF-FM Society at its winter meeting, and, more recently, by the Motor City Radio Club. It has been endorsed by numerous individuals, who have either written letters or signed petitions.

In its endorsement, "NewsLine," a bulletin of the The Amateur Radio News Service (formerly "WestLink"), Bill Pasternak, Editor, said:

The FCC has accepted a request for Rule Making that seeks to

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	}	
	}	RM - 7649
Amendment of Section 97.205 (g)	}	
related to Amateur Repeater Stations	}	

COMMENTS SUPPORTING RM-7649

To the Honorable FCC COMMISSIONERS:

The Texas VHF-FM Society, Representing over 600 members and coordinating over 1100 amateur radio repeaters in The State of Texas, endorses RM-7649 and encourages the Commission to adopt this change, adding Part 97.205 (g) to the Amateur Radio Service Rules, for the reasons explained in the petition.

This resolution was adopted this 16th Day of March, 1991 at a general membership meeting of the Texas VHF-FM Society in Midland, Texas.

President: Paul Gilbert, KE5ZW

COPY

MOTOR CITY RADIO CLUB, INC
PO BOX 337
WYANDOTTE, MI 48192
APRIL 5, 1991

Secretary
Federal Communications Commission
Washington, DC 20554

Formal comments on RM-7649

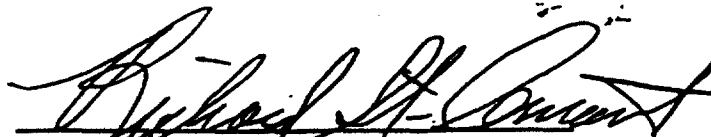
In the Matter of

Amendment of Part 97 of the Commission's Rules
Concerning responsibility for the content of all automatically
re-transmitted signals in the Amateur Radio Service.

The Motor City Radio Club has represented amateur radio operators in south eastern Michigan since 1932 and has members active in all aspects of the service. Membership concern has been voiced regarding the responsibility of the licensee of repeater stations for the content of re-transmitted signals through the repeater. The club was about to petition for a change in FCC rules in this matter when it was learned that RM-7649 had been filed. These comments are to be considered to be in support of RM-7649.

The licensee and/or control operator of a repeater in the Amateur Radio Service should not be held primarily responsible for the content of the communications through the repeater but this responsibility should be that of the operator of the originating

Comments adopted at the regular meeting of the Motor City Radio Club, Inc, April 5, 1991.


Richard St Amant, W8PDV
President

✓ cc: Tom Blackwell, N5GAR
Dallas, Texas

~~PP~~

* Dr. Wayne Green W2MSQ/1 Publisher CD Review - Music Retailing - IRPA News - Free Music Guide - CD Yearbook *
* Wayne Green Enterprises 73 Amateur Radio Today - Radio Fun - NIAC News - Radio Marketing - MUSIC *
* Hancock, N.H. 03449 Entrepreneur Out To Launch Inc - Golden Studios - Music/NH - Creative Music Marketing *
* (603)525-4204(FAX:4423) Greener Pastures Records - Adventures In Music - Auditions - Music Tree *
* Home:588-2105(FAX:3205) On Record - DAT's All - Ind. Record Producers Assn - Mensa - OCIA - ARRL *

* "The reasonable man adapts himself to the world...the unreasonable one persists in trying to adapt the world to him- *
* self. Therefore, all progress depends on the unreasonable man."George Bernard Shaw *

Secretary FCC 3/18/91
Washington DC 20554

Re: RM-7649 - Amending the repeater rules

Honorable Commissioners:

The amateur radio service can benefit our country only if it is permitted to develop new

[REDACTED]



Secretary
Federal Communications Commission
1919 M Street NW
Washington, DC 20554

24 MAR 91

COMMENTS: RM-7649

I am in favor of this petition submitted by Tom Blackwell N5GAR and Joe Jarrett K5FOG to provide a new paragraph G to 47CFR Part 97.205. Their proposal would give the Commission latitude to hold the originating station primarily responsible for prohibited transmissions, and to issue sanctions as required, without removing the present provisions in the Amateur Service Rules that require all stations who automatically relay such transmissions to maintain responsibility for their stations' operation and content of transmissions so relayed. I should think that the Commission and its engineers and field operations personnel will welcome this needed clarification and flexible language added to the present Rules. I can see where no one is hurt or inconvenienced by this addition.

JEROLD R. JOHNSON

Jerold R. Johnson WA5RON
12700 Silver Creek
Austin, TX 78727

March 29, 1991

Bruce Nolte, N6TFS
P.O. Box 41446
Los Angeles, CA 90041

N6TFS

BRUCE NOLTE
P.O. BOX 41446, LOS ANGELES, CA 90041
(213) 257-5502
MONITOR: 146.820 (-600)
PACKET: N6TFS @ N6VW

Federal Communications Commission
Office of the Secretary
Washington, D.C. 20554

Ref: Response to RM-7649

Dear Commission Members:

I wish to express my support for the petition filed by Tom Blackwell, N5GAR. Assigned file number of RM-7649 on March 6, 1991.

Part 97.205(d) of the Amateur Radio Service Rules and Regulations does allow for automatic operation of a repeater. My understanding of the Rules and Regulations leads me to believe that these rules apply equally to all amateur repeaters in automatic operation, including: amateur television repeaters, earth orbiting satellite repeaters, RTTY repeaters, phone repeaters, and digital repeaters.

Just because packet radio permits storage, forward, and hardcopy printout of the relayed communications, that should not make digital repeaters any more guilty of relaying instantaneous illegal transmissions, than the other types of repeaters allowed under Part 97.205 (d).

The originator of an illegal transmission should be the person held responsible. Control operators of repeaters in automatic operation believe that all legally licensed users should use their system in a legitimate manner. No matter what type of repeater it might be. In most cases, control operators and owners, have invested personal time and money, in a repeater system that can benefit the entire Amateur Radio community.

Thank you for considering my opinions on this important matter.

Sincerely,

Bruce Nolte, N6TFS

Hi Tom:

Here is a copy of
what I sent.

Much Thanks!

Bruce Nolte

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington DC 20554

In the matter of

RM-7649 a petition regarding)RM-7649	RM-7649
responsibility for)RM-7649	RM-7649
retransmission of communi-)RM-7649	RM-7649
cations in the Amateur Service.)	RM-7649	RM-7649

I am an Extra Class Amateur Radio operator, K0BJ, licensed and active from 1967. I operate a VHF packet radio station and have been active in 3rd party traffic for over 20 years.

I do not have access to the petition in question, but have some knowledge of it through a summary published in the March 15 WSYI Report. I remember the days when I regularly handled 3rd party traffic on HF cw, then came the rising popularity of VHF repeaters. It always seemed odd to me that

~~standing to 500 and a number of traffic in the field~~

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

Amendment of Section 97.205 (g)
related to Amateur Repeater Stations

RM - 7649

COMMENTS SUPPORTING RM-7649

To the Honorable FCC COMMISSIONERS:

We, the undersigned wish to go on record supporting the Petition for Rule Making
by Tom Blackwell and Joe Jarrett, number RM-7649, for the reasons stated therein.

MERLE D. TAYLOR
Merle D. Taylor WBSEPI
605 S. WALNUT CREEK
MANSFIELD TX 76063

Edward D. Bork W5AUY
1255 GLEN AVE
DESO, TX 75115

F. L. Moon KASHND
3021 Primrose Ave
Ft Worth TX 76111

Ed Wiedenholt W5OGZ
2812 Pritchett
Serving TX 75061-6654

Jimmy Cypert AA5UX
Box 2033
Abilene TX 79604

Dan G. Cheek WA5MWD
1510 TRAVIS
Garland, TX 75042

Garland Moser
3121 Harvard dr.
Serving TX 75062
N5EWD

Bob Hanks WB5HNC
1600 Pease Rd. #2
Austin, TX 78703
147 6/06
449.2

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

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RM - 7649

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RM - 7649

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COMMENTS SUPPORTING RM-7649

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PHILIP E. SHIDELER, K4SM6D 4442 BRANDEIS SAN ANTONIO, TX 78249
Philip E. Shideler

Walter D. DuBose K5YFW 10909 Meadowhome San Antonio, TX 78230

Walter D. DuBose

CARL FRENZEL

K5DSF

4702 CASA MANANA SAN ANTONIO, TEX 78233

Carl Frenzel

Blake Kathryn K6SBT 835 Silver Spruce, San Antonio, TX 78232
Blake Kathryn

Andrew Pichas W450 222 Halbert Dr., San Antonio, TX 78213

James McCaughan K8SFCO 222 Middlebury, San Antonio, TX 78247

J. McCaughan

DENNIS F. SINNIER KESUR 8331 FREDERICKSBURG RD. #1004 SAN ANTONIO, TX 78229

DARR DAVIS W5BGE 1518 SANTA ANNA SAN ANTONIO TX 78201

Rick W. Davis II W5KDF 10118 Iron oak San Antonio TX 78213

Floyd Roland W5JKU 14810 W Hildebrand San Antonio, TX 78201

Before the
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William Williams W0PNY, PRES CCARC, GAINESVILLE, TX 76240
Donald J. Duddy W0B5TNP RETIRED GAINESVILLE TX 76240
Henry W. Richwood W4SHUI SEC. CCARC GAINESVILLE, TX 76240
Francis K. Leach N5MJE, GAINESVILLE, TX 76240
Woody Featherston N5P6I GAINESVILLE, TX 76240 (MOSSLAKE)
Clyde N5ACE RTI Box 328 COLEMANVILLE TX
Eliot Handberg W4SYON Gainesville, TX.
James Floyd N5FBC GAINESVILLE, TX

Before the
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by Tom Blackwell and Joe Jarrett, number RM-7649, for the reasons stated therein.

TIMOTHY B. Mitchell KA5RYF
P.O. BOX 4432
LUBBOCK, TX 79409

Ronnie Franklin WDS6JC
Rt 8 Box 141
Granbury, TX 76048
Ronnie Franklin
MARCUS WAGNER N5GEJ

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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by Tom Blackwell and Joe Jarrett, number RM-7649, for the reasons stated therein.

Rafael Dominguez 1606 E. 17th Big Spring, Texas 79720
Robert McElshart K5PFE 619 3rd St Jasper TX 75951

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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HLB Norton W5VRE
2049 Robin Road
Abilene, TX 79605

Mike Blackwell, W05BQH
201 Old Pflugerville Rd. Box 8
Pflugerville, TX. 78660

B. John McDaniel, KESPL
P.O. Box 80522
Midland, TX 79709

Jerrel Jones WSTUL
2025 MEADOWCREEK DR
PLANO TX 75074-4663